

# **EXHIBIT S**

**From:** [Foley, Thomas F.](#)  
**To:** [Targowska, Anna](#); [SJAquestiveNC](#); ["E. Bradley Evans"](#); ["Joseph A. Schouten"](#); ["Susan J. St. Clair"](#)  
**Cc:** [Freeman, Kia](#); [Proctor, Wyley](#); [Sterlin, Ian](#); ["Peter Siddoway"](#); ["Lynne Borchers"](#)  
**Subject:** RE: Aquestive v BioDelivery (No. 19-cv-00505-D) / Indivior et al. v BioDelivery (No. 5:15-cv-350-D)  
**Date:** Wednesday, March 2, 2022 5:59:15 PM  
**Attachments:** [image001.png](#)

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Dear Counsel:

We have reviewed the search term hit count for the revised search terms Plaintiffs provided on Monday. Although these terms still result in a very large volume of documents, we will move forward with review and production.

It appears that neither Aquestive nor Indivior has produced any ESI pursuant to the ESI protocol. Specifically, we have not received an email production for any custodian other than Garry Myers and his produced emails are dated no later than 2013. Accordingly, we understand these emails are not the result of the process the parties agreed to in this case. Please let us know when we can expect Plaintiffs to begin their ESI productions.

Best regards,  
Tom



**Thomas F. Foley | Associate**

McCarter & English, LLP  
265 Franklin Street | Boston, MA 02110

[tfoley@mccarter.com](mailto:tfoley@mccarter.com) | [www.mccarter.com](http://www.mccarter.com) | [V-Card](#)  
T 617.449.6575 M 973.902.3570

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**From:** Foley, Thomas F.  
**Sent:** Thursday, January 20, 2022 10:30 AM  
**To:** 'Targowska, Anna' <[atargowska@Steptoe.com](mailto:atargowska@Steptoe.com)>; Sterlin, Ian <[isterlin@mccarter.com](mailto:isterlin@mccarter.com)>; Proctor, Wyley <[wproctor@McCarter.com](mailto:wproctor@McCarter.com)>; Freeman, Kia <[kfreeman@mccarter.com](mailto:kfreeman@mccarter.com)>; 'Peter Siddoway' <[psiddoway@sagepat.com](mailto:psiddoway@sagepat.com)>; 'Lynne Borchers' <[LBorchers@sagepat.com](mailto:LBorchers@sagepat.com)>  
**Cc:** SJAquestiveNC <[SJAquestiveNC@Steptoe.com](mailto:SJAquestiveNC@Steptoe.com)>; 'E. Bradley Evans' <[EBE@wardandsmith.com](mailto:EBE@wardandsmith.com)>; 'Joseph A. Schouten' <[JAS@wardandsmith.com](mailto:JAS@wardandsmith.com)>; 'Susan J. St. Clair' <[SJS@wardandsmith.com](mailto:SJS@wardandsmith.com)>  
**Subject:** RE: Aquestive v BioDelivery (No. 19-cv-00505-D) / Indivior et al. v BioDelivery (No. 5:15-cv-350-D)

Dear Anna,

Thank you for your e-mail. Per your request, we provide below search term hits on a per-custodian basis for Niraj Vasisht, Mark Sirgo, and Kenneth Schupp. We ran into an issue with the other three custodians and we are re-running those results. Nonetheless, it is clear from the results for the three custodians shown below that many of these terms are overly broad with respect to all custodians. For example, Buprenorphine resulted in over 9,000 hits, over 33,000 hits, and over 25,000 hits, respectively; naloxone resulted in over 6,000 hits, over 18,000 hits, and over 18,000 hits, respectively; and BEMA resulted in almost 2,000 hits, over 23,000 hits, and over 18,000 hits, respectively. That these terms result in an unreasonable number of hits is unsurprising because the terms have not been limited in any way and BDSI's business involves, in part, making products that contain buprenorphine and

naloxone, and a technology called BEMA. Regardless of the custodians, these terms will need to be narrowed to achieve a reasonable number of hits.

Search Term Hits per Custodian			
Term	Custodians		
	N. Vasisht	M. Sirgo	K. Schupp
(film or laminate or roll or wafer) and (test or result or analy* or examin* or devel*)	162	21,740	18,751
BEMA	1,714	23,376	18,695
“Bioerodible Mucoadhesive”	708	6,044	814
ARx	372	4,998	13,634
Sharp	8,163	5,345	9,214
Endo	4,720	33,742	9,920
LTS	4,415	4,670	1,078
Tapemark	5,221	2,289	12,403
Buprenorphine	9,529	33,592	25,004
naloxone	6,340	18,027	18,857
bup*	13,107	43,473	31,989
nal*	7,061	20,616	20,204
Myers or Sanghvi or Verrall or Francis or Moss or Kendall or Schobel or Barber	2,289	9,457	594
(film or laminate or roll or wafer or buccal or sublingual) and (Aquestive or MonoSol or Indivior or Reckitt or MSRX or RB or Suboxone)	1,714	13,580	723

With regard to your request that we modify certain search terms, we propose the following, shown in red text:

- **BDSI Search Term 3** (Myers or Sanghvi or Verrall or Francis or Moss or Fuisz or Yang)
  - **Custodian (Garry Myers):** 99% of records;
  - We agree with your proposal to remove “Myers” from the search term for Custodian Garry Myers only.
  - **Custodian (Mark Schobel):** over 17,000 records
  - Please let us know the hits for each of the terms for this custodian so that we can identify which term or terms resulted in the hits.
- **BDSI Search Term 7** ((\*uniform\* or concentration or amount or HPLC) and (active or film or API or buprenorphine))
  - **Custodian (Mark Schobel):** over 14,000 records
    - For Mark Schobel only, we propose to substitute the search term: ((\*uniform\* or concentration or amount or HPLC) w/7 (active or film or API or buprenorphine))
- **BDSI Search Term 8** ((vary or vari\* or active or concentration or amount) and (“5%” or “10%” or “15%” or “5 %” or “10 %” or “15 %” or “five percent” or “ten percent” or “fifteen percent”))
  - **Custodian (Keith Kendall):** over 22,000 records

**Custodian (Mark Schobel):** over 24,000 records

- o For Keith Kendall and Mark Schobel only, we propose to substitute the search term: ((vary or vari\* or active or concentration or amount) w/7 ("5%" or "10%" or "15%" or "5 %" or "10 %" or "15 %" or "five percent" or "ten percent" or "fifteen percent"))

In the revised search terms above, "w/7" is intended to indicate a search in which a term in the first group appears within 7 words of a term within the second group.

Please let us know your revisions to the Aquestive search terms identified above. We look forward to hearing from you concerning the breakdown for Term 3 and proposed revised search terms for Terms 7 and 8.

Best,  
Tom



**Thomas F. Foley | Associate**

McCarter & English, LLP  
265 Franklin Street | Boston, MA 02110

[tfoley@mccarter.com](mailto:tfoley@mccarter.com) | [www.mccarter.com](http://www.mccarter.com) | V-Card  
T 617.449.6575 M 973.902.3570

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**From:** Targowska, Anna <[atargowska@Step toe.com](mailto:atargowska@Step toe.com)>

**Sent:** Wednesday, January 19, 2022 8:50 PM

**To:** Foley, Thomas F. <[tfoley@McCarter.com](mailto:tfoley@McCarter.com)>; Sterlin, Ian <[isterlin@mccarter.com](mailto:isterlin@mccarter.com)>; Proctor, Wyley <[wproctor@McCarter.com](mailto:wproctor@McCarter.com)>; Freeman, Kia <[KFreeman@McCarter.com](mailto:KFreeman@McCarter.com)>; 'Peter Siddoway' <[psiddoway@sagepat.com](mailto:psiddoway@sagepat.com)>; 'Lynne Borchers' <[LBorchers@sagepat.com](mailto:LBorchers@sagepat.com)>

**Cc:** SJAquestiveNC <[SJAquestiveNC@Step toe.com](mailto:SJAquestiveNC@Step toe.com)>; 'E. Bradley Evans' <[EBE@wardandsmith.com](mailto:EBE@wardandsmith.com)>; 'Joseph A. Schouten' <[JAS@wardandsmith.com](mailto:JAS@wardandsmith.com)>; 'Susan J. St. Clair' <[SJS@wardandsmith.com](mailto:SJS@wardandsmith.com)>

**Subject:** RE: Aquestive v BioDelivery (No. 19-cv-00505-D) / Indivior et al. v BioDelivery (No. 5:15-cv-350-D)

**\*\*External Message\*\***

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Counsel,

Please provide the custodian information requested in my January 12 email so that we can evaluate BDSI's request to narrow Aquestive's ESI search terms.

With respect to BDSI's ESI search terms, several have resulted in an unreasonable amount of hits as outlined below:

- **BDSI Search Term 3** (Myers or Sanghvi or Verrall or Francis or Moss or Fuisz or Yang)
  - o **Custodian (Garry Myers):** 99% of records; we suggest removing the word "Myers" from the search term for this custodian only
  - o **Custodian (Mark Schobel):** over 17,000 records
- **BDSI Search Term 7** ((\*uniform\* or concentration or amount or HPLC) and (active or film or API or buprenorphine))

**Custodian (Mark Schobel):** over 14,000 records

- **BDSI Search Term 8** ((vary or vari\* or active or concentration or amount) and ("5%" or "10%" or "15%" or "5 %" or "10 %" or "15 %" or "five percent" or "ten percent" or "fifteen percent"))
  - **Custodian (Keith Kendall):** over 22,000 records
  - **Custodian (Mark Schobel):** over 24,000 records

Please provide proposed replacement ESI search terms per custodian. Once these search terms have been properly narrowed, we will be in a position to provide a date certain for production.

Regards,  
Anna

**Step toe**

**Anna M Targowska**

Step toe & Johnson LLP | 227 West Monroe Street | Suite 4700 | Chicago, IL 60606  
direct 312 577 1269 | fax 312 577 1370 | [atargowska@Step toe.com](mailto:atargowska@Step toe.com)

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**From:** Targowska, Anna

**Sent:** Wednesday, January 12, 2022 6:51 PM

**To:** Foley, Thomas F. <[tfoley@McCarter.com](mailto:tfoley@McCarter.com)>; SJAquestiveNC <[SJAquestiveNC@Step toe.com](mailto:SJAquestiveNC@Step toe.com)>; Hibey, James <[jhibey@step toe.com](mailto:jhibey@step toe.com)>; Lucia, Jamie <[jlucia@Step toe.com](mailto:jlucia@Step toe.com)>; Abramic, John <[jabramic@Step toe.com](mailto:jabramic@Step toe.com)>; 'Joseph A. Schouten' <[JAS@wardandsmith.com](mailto:JAS@wardandsmith.com)>; 'E. Bradley Evans' <[EBE@wardandsmith.com](mailto:EBE@wardandsmith.com)>; 'Susan J. St. Clair' <[SJS@wardandsmith.com](mailto:SJS@wardandsmith.com)>; Gelwicks, Daniel <[dgelwicks@Step toe.com](mailto:dgelwicks@Step toe.com)>

**Cc:** Freeman, Kia <[KFreeman@McCarter.com](mailto:KFreeman@McCarter.com)>; Proctor, Wyley <[wproctor@McCarter.com](mailto:wproctor@McCarter.com)>; 'Lynne Borchers' <[LBorchers@sagepat.com](mailto:LBorchers@sagepat.com)>; 'Peter Siddoway' <[psiddoway@sagepat.com](mailto:psiddoway@sagepat.com)>; Sterlin, Ian <[isterlin@mccarter.com](mailto:isterlin@mccarter.com)>

**Subject:** RE: Aquestive v BioDelivery (No. 19-cv-00505-D) / Indivior et al. v BioDelivery (No. 5:15-cv-350-D)

Counsel,

Aquestive is reviewing your request to revise its ESI search terms. However, in order to proceed we need to understand the volume of hits per custodian to determine if an adjustment is necessary or reasonable on a custodian by custodian basis. Please provide that information at your earliest convenience.

Regards,  
Anna

**Step toe**

**Anna M Targowska**

Step toe & Johnson LLP | 227 West Monroe Street | Suite 4700 | Chicago, IL 60606  
direct 312 577 1269 | fax 312 577 1370 | [atargowska@Step toe.com](mailto:atargowska@Step toe.com)

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**From:** Foley, Thomas F. <[tfoley@McCarter.com](mailto:tfoley@McCarter.com)>

**Sent:** Wednesday, January 12, 2022 3:58 PM

**To:** Targowska, Anna <[atargowska@Step toe.com](mailto:atargowska@Step toe.com)>; Foley, Thomas F. <[tfoley@McCarter.com](mailto:tfoley@McCarter.com)>; SJAquestiveNC <[SJAquestiveNC@Step toe.com](mailto:SJAquestiveNC@Step toe.com)>; Hibey, James <[jhibey@step toe.com](mailto:jhibey@step toe.com)>; Lucia, Jamie <[jlucia@Step toe.com](mailto:jlucia@Step toe.com)>; Abramic, John <[jabramic@Step toe.com](mailto:jabramic@Step toe.com)>; 'Joseph A. Schouten' <[JAS@wardandsmith.com](mailto:JAS@wardandsmith.com)>; 'E. Bradley Evans' <[EBE@wardandsmith.com](mailto:EBE@wardandsmith.com)>; 'Susan J. St. Clair' <[SJS@wardandsmith.com](mailto:SJS@wardandsmith.com)>; Gelwicks, Daniel <[dgelwicks@Step toe.com](mailto:dgelwicks@Step toe.com)>

**Cc:** Freeman, Kia <[KFreeman@McCarter.com](mailto:KFreeman@McCarter.com)>; Proctor, Wyley <[wproctor@McCarter.com](mailto:wproctor@McCarter.com)>; 'Lynne Borchers' <[LBorchers@sagepat.com](mailto:LBorchers@sagepat.com)>; 'Peter Siddoway' <[psiddoway@sagepat.com](mailto:psiddoway@sagepat.com)>; Sterlin, Ian <[isterlin@mccarter.com](mailto:isterlin@mccarter.com)>

**Subject:** RE: Aquestive v BioDelivery (No. 19-cv-00505-D) / Indivior et al. v BioDelivery (No. 5:15-cv-350-D)

Dear Counsel:

We have run the search terms that you proposed for the email custodians identified. The search yielded a total of almost 200,000 hits. Six of the requested terms, identified below, yielded a very large numbers of hits. In order to achieve a reasonable volume for review, please provide revised search terms for this items. In the case of terms joined by an “or” without further qualification and yielding over 50,000 hits, we have broken down the search by individual word to assist in revising the search terms.

1. (film or laminate or roll or wafer) and (test or result or analy\* or examin\* or devel\*) [over 49,000 hits]
4. BEMA [over 47,000 hits] or “Bioerodible Mucoadhesive” [over 7,000 hits] or “bilayer” [over 1,000 hits]
5. ARx [over 27,000 hits] or Sharp [over 23,000 hits] or Endo [over 49,000 hits] or Lohmann [over 4,000 hits] or LTS [over 10,000 hits] or Tapemark [over 20,000 hits]
6. Buprenorphine [over 68,000 hits] or naloxone [over 43,000 hits] or bup\* [over 89,000 hits] or nal\* [over 48,000 hits]
7. Myers or Sanghvi or Verrall or Francis or Moss or Kendall or Schobel or Barber [over 12,000]
8. (film or laminate or roll or wafer or buccal or sublingual) and (Aquestive or MonoSol or Indivior or Reckitt or MSRX or RB or Suboxone) [over 16,000 hits]

Finally, please let us know the status of Plaintiffs’ production of emails.

Best regards,  
Tom



**Thomas F. Foley | Associate**

McCarter & English, LLP  
265 Franklin Street | Boston, MA 02110

[tfoley@mccarter.com](mailto:tfoley@mccarter.com) | [www.mccarter.com](http://www.mccarter.com) | [V-Card](#)  
T 617.449.6575 M 973.902.3570

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**From:** Targowska, Anna <[atargowska@Step toe.com](mailto:atargowska@Step toe.com)>

**Sent:** Tuesday, November 30, 2021 7:59 PM

**To:** Foley, Thomas F. <[tfoley@McCarter.com](mailto:tfoley@McCarter.com)>; SJAquestiveNC <[SJAquestiveNC@Step toe.com](mailto:SJAquestiveNC@Step toe.com)>; Hibey, James <[jhibey@step toe.com](mailto:jhibey@step toe.com)>; Lucia, Jamie <[jlucia@Step toe.com](mailto:jlucia@Step toe.com)>; Abramic, John <[jabramic@Step toe.com](mailto:jabramic@Step toe.com)>; 'Joseph A. Schouten' <[JAS@wardandsmith.com](mailto:JAS@wardandsmith.com)>; 'E. Bradley Evans' <[EBE@wardandsmith.com](mailto:EBE@wardandsmith.com)>; 'Susan J. St. Clair' <[SJS@wardandsmith.com](mailto:SJS@wardandsmith.com)>; Gelwicks, Daniel <[dgelwicks@Step toe.com](mailto:dgelwicks@Step toe.com)>

**Cc:** Freeman, Kia <[KFreeman@McCarter.com](mailto:KFreeman@McCarter.com)>; Proctor, Wyley <[wproctor@McCarter.com](mailto:wproctor@McCarter.com)>; 'Lynne Borchers' <[LBorchers@sagepat.com](mailto:LBorchers@sagepat.com)>; 'Peter Siddoway' <[psiddoway@sagepat.com](mailto:psiddoway@sagepat.com)>

**Subject:** RE: Aquestive v BioDelivery (No. 19-cv-00505-D) / Indivior et al. v BioDelivery (No. 5:15-cv-350-D)

**\*\*External Message\*\***

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Counsel,

For each of the following custodians:

- Andrew Finn (former Executive VP – Product Development)
- Joseph Lockhart (Senior Vice President – Operations)
- Kenneth Schupp (former Director - Pharmaceutical Development / Analytical Chemistry / Quality Control)
- Mark Sirgo (former President & CEO)
- Joey Thomas (Senior Director - Technical Operations)
- Niraj Vasisht (former Chief Technology Officer and Senior VP – Product Development)

Aquestive requests that the following searches be performed:

1. (film or laminate or roll or wafer) and (test or result or analy\* or examin\* or devel\*)
2. (8,765,167 or 167 or “167 patent” or “11/517,982” or 517982 or “517,982”) and (Aquestive or MonoSol or Indivior or Reckitt or MSRX or RB or Suboxone)
3. (N207932 or N205637 or 207932 or 205637) and (test or result or analy\* or examin\* or devel\*)
4. BEMA or “Bioerodible Mucoadhesive” or “bilayer”
5. ARx or Sharp or Endo or Lohmann or LTS or Tapemark
6. buprenorphine or naloxone or bup\* or nal\*
7. Myers or Sanghvi or Verrall or Francis or Moss or Kendall or Schobel or Barber
8. (film or laminate or roll or wafer or buccal or sublingual) and (Aquestive or MonoSol or Indivior or Reckitt or MSRX or RB or Suboxone)
9. Pharmfilm
10. (Belbuca or Bunavail) and (N207932 or N205637 or 207932 or 205637) and (test or result or analy\* or examin\* or devel\*)

The time frame for all of the searches should be 1/1/2006 – present. Please run the searches as non-case sensitive.

Regards,  
Anna

**Step toe**

**Anna M Targowska**

Step toe & Johnson LLP | 227 West Monroe Street | Suite 4700 | Chicago, IL 60606  
direct 312 577 1269 | fax 312 577 1370 | [atargowska@steptoe.com](mailto:atargowska@steptoe.com)

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**From:** Foley, Thomas F. <[tfoley@McCarter.com](mailto:tfoley@McCarter.com)>

**Sent:** Tuesday, November 16, 2021 5:00 PM

**To:** SJAquestiveNC <[SJAquestiveNC@Steptoe.com](mailto:SJAquestiveNC@Steptoe.com)>; Hibey, James <[jhibey@steptoe.com](mailto:jhibey@steptoe.com)>; Lucia, Jamie <[jlucia@steptoe.com](mailto:jlucia@steptoe.com)>; Abramic, John <[jabramic@steptoe.com](mailto:jabramic@steptoe.com)>; Targowska, Anna <[atargowska@steptoe.com](mailto:atargowska@steptoe.com)>; 'Joseph A. Schouten' <[JAS@wardandsmith.com](mailto:JAS@wardandsmith.com)>; 'E. Bradley Evans' <[EBE@wardandsmith.com](mailto:EBE@wardandsmith.com)>; 'Susan J. St. Clair' <[SJS@wardandsmith.com](mailto:SJS@wardandsmith.com)>; Gelwicks, Daniel <[dgelwicks@steptoe.com](mailto:dgelwicks@steptoe.com)>

**Cc:** Freeman, Kia <[KFreeman@McCarter.com](mailto:KFreeman@McCarter.com)>; Proctor, Wyley <[wproctor@McCarter.com](mailto:wproctor@McCarter.com)>; 'Lynne Borchers' <[LBorchers@sagepat.com](mailto:LBorchers@sagepat.com)>; 'Peter Siddoway' <[psiddoway@sagepat.com](mailto:psiddoway@sagepat.com)>

**Subject:** Aquestive v BioDelivery (No. 19-cv-00505-D) / Indivior et al. v BioDelivery (No. 5:15-cv-350-D)

Dear Counsel:

In connection with Action Nos. 5:15-cv-350-D and 19-cv-00505, BioDelivery identifies the following six email custodians pursuant to section 2.3(a) of the Stipulated Order Governing Electronic Discovery, DI 60 (No. 19-cv-00505):

- Andrew Finn (former Executive VP – Product Development)
- Joseph Lockhart (Senior Vice President – Operations)

- Kenneth Schupp (former Director - Pharmaceutical Development / Analytical Chemistry / Quality Control)
- Mark Sirgo (former President & CEO)
- Joey Thomas (Senior Director - Technical Operations)
- Niraj Vasisht (former Chief Technology Officer and Senior VP – Product Development)

We look forward to the parties' exchange of search terms on November 19, 2021 at 8:00 pm ET.

Best regards,  
Tom



**Thomas F. Foley | Associate**

McCarter & English, LLP  
265 Franklin Street | Boston, MA 02110

[tfoley@mccarter.com](mailto:tfoley@mccarter.com) | [www.mccarter.com](http://www.mccarter.com) | V-Card  
T [617.449.6575](tel:617.449.6575) M [973.902.3570](tel:973.902.3570)

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